

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Bobby Jean Sass,

Plaintiff,

v.

Wells Fargo Bank, N.A.,

Defendant.

Civil Action No. 2:17-1501-RMG

ORDER AND OPINION

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending this matter be remanded, *sua sponte*, to state court for lack of subject-matter jurisdiction. (Dkt. No. 16.) No party filed objections to the Report and Recommendation. Plaintiff, proceeding *pro se*, originally filed this action in the Berkeley County Court of Common Pleas on February 26, 2016. The Court of Common Pleas dismissed Plaintiff's action on May 8, 2017. (Dkt. No. 1-2 at 3.) Plaintiff then filed a notice of removal (styled as a "complaint for removal") on June 8, 2017. (Dkt. No. 1.) Plaintiff asserts, "I am removing case number 2013-CP-08-02096 and title BOBBY SASS, Plaintiff(s) vs WELLS FARGO BANK, N.A., Defendant(s) from the Berkeley County Court of Common Pleas to the jurisdiction of this court for a Right to Review pursuant to Title 5 USC subsection 702."¹ (*Id.* at 1.)

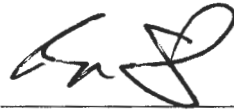
As set forth in the Report and Recommendation, a plaintiff may not remove his own case. *See* 28 U.S.C. §§ 1441(a) & 1446(a); *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104–09 (1941); *Palisades Collections LLC v. Shorts*, 552 F.3d 327, 333 (4th Cir. 2008). The restriction on who may remove a matter is jurisdictional. *See Conner v. Salzinger*, 457 F.2d 1241, 1243 (3d

¹ Title 5 U.S.C. § 702, part of the Administrative Procedure Act, provides for a private right of action to enforce federal rights against federal agencies.

Cir. 1972). The Magistrate Judge therefore recommends that this Court has no subject-matter jurisdiction in this matter and must remand to state court. *See* 28 U.S.C. § 1447.

The Court agrees with the analysis of the Magistrate Judge and **ADOPTS** the Report and Recommendation (Dkt. No. 16). This matter is **REMANDED** to the Berkeley County Court of Common Pleas.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

September 26, 2017
Charleston, South Carolina